***THE HONOURABLE SRI JUSTICE V.ESWARAIAH**

+WRIT PETITION No. 5639 OF 2006

% DATED: 13.03.2007

BETWEEN:

Subbarayudu,
S/o Tirupathaiah,
Occ. Agriculture,
R/o Pamulapadu Mandal,
Atmakur Tq,
Kurnool District.

…PETITIONER

Vs.

$ The Director General of Police,
Lakdikapool,
Hyderabad & 2 others.

…RESPONDENTS

! COUNSEL FOR THE PETITIONER: SRI K.GOVIND.

^ COUNSEL FOR THE RESPONDENTS: GP FOR HOME

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? Cases referred

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..... PETITIONER

AND

The Director General of Police,
Lakdikapool,
Hyderabad & 2 others

.....RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents 2 and 3 in not registering the case, investigating, and submitting the report to the Magistrate pursuant to complaint, dated 14-01-2006, as illegal and arbitrary.

3. Petitioner belongs to Scheduled Caste Community and resident of Pamulapadu village. It is stated that the petitioner and his wife Rojamma owned an extent of Ac.7.00 of land in Pamulapadu village, near Rudravaram village, and out of the said Ac.7.00 of land they have raised Millet crop in Ac.3.00; Sun flower crop in Ac.1.00 besides Korra crop in some extent of the remaining Ac.3.00; and kept some extent vacant. Whileso, on the day of Sankranthi festival i.e., on
14-01-2006, twenty two college students, including one Sukunath, s/o Maheswara Reddy; and son-in-law of the said

Maheswarareddy namely Mallikarjunareddy; and one Srinivasareddy, s/o Krishnareddy entered in their fields, in which there are standing crops and played cricket by spoiling the standing crop. *In spite* of repeated requests not to spoil the said crop they have not considered the same and have scolded them taking their caste name and also beat them. It is stated that as the petitioner belongs to the Scheduled caste and does not have any other livelihood except the said agricultural fields and the standing crops raised by him, He has made a written representation before the Sub-Inspector of police, Pamulapadu on 14-01-2006, but the Station House Officer refused to receive the same. The said incident was also reported to the village elders but they are also helpless to say anything. As injustice is caused to the petitioner by the illegal and criminal action of the said people he lodged a complaint before the Hon'ble Chief Minister of A.P., which was received in the office of the Hon'ble Chief Minister, and forwarded to the Superintendent of Police, Kurnool vide proceedings No.3821/GEN/2006, dated 08-02-2006. Petitioner also made a representation before the Director General of Police on 13-02-2006, but no action has been taken so far. Hence, the present Writ Petition.

4. The Sub Inspector of Police, Pamulapadu-3rd respondent filed a counter stating that the allegation made against him that he refused to receive the complaint, dated 14-01-2006, is false. I am of the opinion that the said denial appears to be incorrect, as the petitioner all the way went and filed representations before the Director General of Police as well as the Hon'ble Chief Minister

and even after forwarding the said representation from the office of the Hon'ble Chief Minister, neither the Superintendent of Police, Kurnool, nor the Station House Officer has taken any steps to register the case and investigate the same in accordance with law.

5. It is stated that pursuant to the receipt of the representation from the office of the Hon'ble Chief Minister with regard to the aforesaid allegations, the Superintendent of Police, Kurnool, directed the Sub-Divisional Police Officer to conduct an enquiry into the allegations made in the petition and accordingly, the Sub-Divisional Police Officer conducted a detailed enquiry with regard to the said allegations and sent a report to the Superintendent of Police dropping further action, and the copy of the said report in C.No.17/SD-ATR/2006, dated 12-02-2006, is also enclosed. A perusal of the said copy of the report sent by the Sub-Divisional Police Officer, Atmakur to the Superintendent of Police, Kurnool goes to show that the petitioner and his wife jointly filed a representation making the aforesaid allegations stating that the joint petition addressed to the Hon'ble Chief Minister was received vide proceedings No.1786/GEN/2006, dated
20-01-2006, and pursuant to the proceedings of the Superintendent of Police in C.No.5006/G2/CM/2006, dated 25-01-2006, the Sub-Divisional Police Officer, Atmakur conducted an enquiry and examined the witnesses about the allegations levelled by the petitioner against the said Sukunath, s/o Maheswarareddy and Mallikarjunareddy, and Srinivasareddy of Pamulapadu village of Kurnool District and the said detailed enquiry reveals that the petitioner and his wife-Rojamma are residents of Pamulapadu

village and they own Ac.7.00, out of which they have raised Millet crop in Ac.3.00; Sun Flower crop in Ac.1.00; besides Korra crop in some extent and kept some extent vacant; and on the date of Sankranthi festival i.e., on 14-01-2006 while twentytwo college students including the aforesaid persons were playing cricket in Ac.3.00 barren land of the petitioner, due to lob by student the said ball went and fell in the haystack of the petitioner, and on that all the students went and removed some haystack in order to find the ball. Meanwhile the petitioner came there, banged them and let them off from his field. All the students went away from the barren field of the petitioner without making any rupture. It is further stated that none of them abused the petitioner taking his caste name and the said allegations are far away from truth. If really the petitioner and his wife were ill-treated and abused they would have lodged a complaint immediately to the police but they did not do so. On the other hand, it is stated that the petitioner is unbalanced and used to abuse students whenever they enter in the said barren field to play cricket and other games.

6. I am of the opinion that the said report submitted by the Sub Divisional Police Officer, Atmakur, dated 12-02-2006, is without any justification and contrary to the relevant provisions of the Code of Criminal Procedure as well as the provisions of the S.Cs & S.Ts (POA) Act (for brevity, 'the Act'). Whenever a complaint has been filed alleging that a cognizable offence has been committed, moreso, when the people belonging to Scheduled Caste and Scheduled Tribe were abused by their caste name and

when there are specific allegations that they were beaten, and their property was destroyed without registering the crime, making investigation, and filing a report is unknown to law. Therefore, I am of the opinion that the whole procedure adopted by the respondents is illegal and unsustainable. Respondents instead of taking remedial measures and protecting the Scheduled Caste people by taking appropriate action under the said Act, have taken special care to protect the upper class people.

7. Having regard to the facts and circumstances, the Writ Petition is allowed with costs of Rs.10,000/- (rupees ten thousand only) payable by the respondents to the petitioner and the 2nd respondent is directed to register a case against the accused and get the same investigated by the Sub-Divisional Police Officer, other than the Sub-Divisional Police Officer, Atmakur, who conducted unfair and impartial enquiry. Respondents shall also take all appropriate steps to protect the land of the petitioner and also to pay the compensation for the loss of the crops.

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V.ESWARAIAH, J

13th March, 2007

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